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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/581,377	03/29/2001	Wolfgang Retschke	140/01624	9733
23373	7590	11/09/2004		EXAMINER
SUGHRIE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			PHAM, HAI CHI	
			ART UNIT	PAPER NUMBER
			2861	

DATE MAILED: 11/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/581,377	RETSCHKE ET AL.	
	Examiner	Art Unit	
	Hai C Pham	2861	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on RCE (09/09/04) & Amendment (08/09/04).
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-10, 12-38, 81-83, 102 and 111-135 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) 32-38, 81-83, 102, 111, 113-117, 121-127 and 131-135 is/are allowed.
 6) Claim(s) 1-7, 12, 13 and 112 is/are rejected.
 7) Claim(s) 8-10, 14-31, 118-120 and 128-130 is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____

5) Notice of Informal Patent Application (PTO-152)
 6) Other: _____

DETAILED ACTION

Request for Continued Examination

1. The request filed on 09/09/04 for a Continued Examination (RCE) under 37 CFR 1.114 based on parent Application No. 09/581,377 is acceptable and a RCE has been established. An action on the RCE follows.

Allowable Subject Matter

2. The indicated allowability of claim 11, whose content is now incorporated into claim 1, is withdrawn in view of the teaching of the reference to Yoshida (U.S. 6,052,140). Rejections based on the newly cited reference follow.

Duplicate Claims Objection

3. Claims 118 and 128 are objected to under 37 CFR 1.75 as being a substantial duplicate of claims 8 and 10, respectively. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 1-7, 12-13 and 112 are rejected under 35 U.S.C. 102(e) as being anticipated by Yoshida (U.S. 6,052,140).

Yoshida discloses an image forming apparatus and a method for writing a pattern on a surface (photosensitive material 106) with a scanning beam comprised of a plurality of independently addressable sub-beams (the sub-beams being emitted by the respective LEDs 208 in an on-off controllable manner, Fig. 5), an unmodulated energy of at least two of the independently addressable sub-beams being different (different number of formed dots and thus the corresponding different number of the non-recorded dots, or unmodulated-energy dots, are dispersedly formed in the overlapping region) (col. 3, lines 27-42) (see also Fig. 10C), the surface being scanned with said scanning beams a plurality of times, said sub-beams scanning the surface side-by-side in the cross scan direction, each said sub-beam being modulated to reflect information to be written (a plurality of scanning lines being simultaneously performed during one scan operation in the sub-scanning direction P by the sub-beams generated by the

above LEDs), and overlapping the beams in successive scans in the cross-scan direction such that all written areas of the surface are written on during at least two scans (the sub-beams are overlapped in the overlapping region 450 where at least one main scanning line is formed by exposure of two successive main scan operations, wherein, in one embodiment, the dots of the main scanning line not formed during the preceding scan operation being formed during the succeeding scan operation, and in another embodiment, the same dots being formed by overlapping during the successive scan operations) (see col. 17, lines 5-21 and col. 19, line 50 to col. 20, line 11, respectively). With regard to claims 2-7, Yoshida further teaches the above scan operation being repeated as many times as required until the exposure of the surface is complete (col. 15, lines 55-57). With regard to claims 12-13, each of the light emitting diodes has inherently an intensity of Gaussian distribution and is on/off modulated.

Allowable Subject Matter

6. Claims 32-38, 81-83, 102, 111, 113-117, 121-127 and 131-135 are allowed.
7. Claims 8-10, 14-31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
8. Claims 119-120 and 129-130 are objected to as being dependent upon an objected duplicate claims, but would be allowable if rewritten to overcome the objection, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

9. Applicant's arguments with respect to claims 1-7, 12-13 and 112 have been considered but are moot in view of the new grounds of rejection presented in this Office action.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai C Pham whose telephone number is (571) 272-2260. The examiner can normally be reached on M-F 8:30AM - 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David L Talbott can be reached on (571) 272-1934. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



HAI PHAM
PRIMARY EXAMINER
November 5, 2004